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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-821-802]

#### Uranium from the Russian Federation; Final Results of Expedited Sunset Review of the Suspension Agreement

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of Final Results of the Expedited Sunset Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation

#### SUMMARY:

On July 1, 2011, the U.S. Department of Commerce (“the Department”) initiated a third sunset review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (“Suspension Agreement”) pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”). See Initiation of Five-Year (“Sunset”) Review, 76 FR 38613 (July 1, 2011) (“Initiation Notice”). On the basis of notices of intent to participate and adequate substantive comments filed on behalf of domestic interested parties, as well as no response from respondent interested parties, the Department is conducting an expedited (120-day) review of the Suspension Agreement. As a result of this review, the Department finds that termination of the Suspension Agreement would be likely to lead to continuation or recurrence of dumping at the levels indicated in the “Final Results of Review” section of this notice.

EFFECTIVE DATE: *[Insert date of publication in the Federal Register.]*

FOR FURTHER INFORMATION CONTACT: Maureen Price or Sally C. Gannon, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street

and Constitution Avenue, N.W., Washington, DC 20230, telephone: (202) 482-4271 or (202) 482-0162.

#### SUPPLEMENTAL INFORMATION:

##### History of the Suspension Agreement

On December 5, 1991, the Department published in the Federal Register a notice of initiation of the antidumping duty investigation on uranium from the Union of Soviet Socialist Republics (“USSR”). See Initiation of Antidumping Duty Investigation: Uranium from the Union of Soviet Socialist Republics 56 FR 63711 (December 5, 1991). On December 23, 1991, the U.S. International Trade Commission (“ITC”) issued an affirmative preliminary injury determination.

On December 25, 1991, the USSR dissolved and the United States subsequently recognized the twelve newly independent states which emerged: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation (“Russia”), Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The Department continued the investigations against each of these twelve countries. On June 3, 1992, the Department issued an affirmative preliminary determination that uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan was being sold at less-than-fair-value by a weighted-average dumping margin of 115.82 percent, and a negative determination regarding the sale of uranium from Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. See Preliminary Determinations of Sales at Less Than Fair Value: Uranium From Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine and Uzbekistan; and Preliminary Determinations of Sales at Not Less Than Fair Value: Uranium From Armenia, Azerbaijan, Byelarus, Georgia, Moldova and

Turkmenistan 57 FR 23380 (June 3, 1992) (1992 Preliminary Determinations).

On October 30, 1992, the Department suspended the antidumping duty investigations involving uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan on the bases of agreements by the countries' respective governments to restrict the volume of direct or indirect exports to the United States in order to prevent the suppression or undercutting of price levels of United States domestic uranium. See Antidumping; Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan; Suspension of Investigations and Amendment of Preliminary Determinations, 57 FR 49220, 49235 (October 30, 1992) (1992 Suspension Agreements). The Department also amended its preliminary determination to include highly-enriched uranium ("HEU") in the scope of the investigations. See Id.

The first amendment to the Suspension Agreement, effective on March 11, 1994, authorized "matched sales" in the United States of Russian-origin and U.S.-origin natural uranium and separative work units ("SWU"). See Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 59 FR 15373 (April 1, 1994). The amendment also extended the duration of the Suspension Agreement to March 31, 2004. See Id.

Effective on October 3, 1996, the Department and the Government of Russia agreed to two amendments to the Suspension Agreement. One amendment provided for the sale in the United States of feed associated with imports of Russian low-enriched uranium ("LEU") derived from HEU, making the Suspension Agreement consistent with the United States Enrichment Corporation Privatization Act (42 U.S.C. 2297h, *et seq.*) ("USEC Privatization Act"). The second amendment restored previously-unused quota for SWU and included Russian uranium

which had been enriched in a third country within the scope of the Suspension Agreement.

According to this second amendment, these modifications would remain in effect until the date two years after the effective date of the amendment. See Amendments to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 61 FR 56665, 56667 (November 4, 1996).

The next amendment to the Suspension Agreement, effective on May 7, 1997, doubled the amount of Russian-origin uranium that may be imported into the United States for further processing prior to re-exportation, and lengthened the period of time uranium may remain in the United States for such processing to up to three years. See Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 62 FR 37879 (July 15, 1997).

On July 31, 1998, the Department notified interested parties of a change in the administration of the matched sales quota in that the Department would, effective immediately, use a calendar year basis (i.e., January 1-December 31) rather than the previously-used quota year basis (i.e., April 1-March 31). See Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 63 FR 40879 (July 31, 1998).

On August 2, 1999, the Department published a notice of initiation of the first five-year sunset review of the Suspension Agreement (“First Sunset Review”). See Initiation of Five-Year (“Sunset”) Reviews 64 FR 41915 (August 2, 1999). On July 5, 2000, the Department published its notice of the final results of the full sunset review, finding that revocation of the Suspension Agreement would be likely to lead to continuation or recurrence of dumping at a percentage weighted-average margin of 115.82 percent for all Russian manufacturers/exporters. See Notice

of Final Results of Full Sunset Review: Uranium from Russia, 65 FR 41439 (July 5, 2000). On August 22, 2000, the Department published a notice of continuation of the Suspension Agreement pursuant to the Department's affirmative determination and the ITC's affirmative determination that termination of the Suspension Agreement would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Notice of Continuation of Suspended Antidumping Duty Investigation: Uranium from Russia, 65 FR 50958 (August 22, 2000). See also Uranium from Russia; Corrected Continuation of Suspended Antidumping Duty Investigation 65 FR 52407 (August 29, 2000).

On July 1, 2005, the Department published a notice of initiation of the second five-year sunset review of the Suspension Agreement ("Second Sunset Review"). See Initiation of Five-year ("Sunset") Reviews, 70 FR 38101 (July 1, 2005). On June 6, 2006, the Department published its notice of the final results of the full sunset review, finding that termination of the Suspension Agreement would be likely to lead to continuation or recurrence of dumping at a percentage weighted-average margin of 115.82 percent for all Russian manufacturers/exporters. See Final Results of Five-Year Sunset Review of Suspended Antidumping Duty Investigation on Uranium From the Russian Federation 71 FR 32517 (June 6, 2006). On August 11, 2006, the Department published a notice of continuation of the Suspension Agreement pursuant to the Department's affirmative determination and the ITC's affirmative determination that termination of the suspended investigation on uranium from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable

time. See Continuation of Suspended Antidumping Duty Investigation: Uranium From the Russian Federation, 71 FR 46191 (August 11, 2006).

On February 1, 2008, the Department and the Government of Russia signed another amendment to the Suspension Agreement (“2008 Amendment”) instituting new quotas through 2020 for commercial Russian uranium exports sold directly or indirectly to U.S. utilities or otherwise. See Amendment to the Agreement Suspending the Antidumping Investigation on Uranium From the Russian Federation, 73 FR 7705 (February 11, 2008) (2008 Amendment). Of particular relevance to this sunset review, Section XII of the 2008 Amendment states in part that:

In addition, the Department shall conduct sunset reviews under 19 U.S.C. 1675(c) in the years 2011 and 2016. All parties agree that the sunset reviews shall be expedited, pursuant to 19 U.S.C. 1675(C)(4) and (C)(3)(B), respectively, at both the Department of Commerce and the International Trade Commission.

See 2008 Amendment, at 7707. The Department issued its memorandum regarding the 2008 Amendment’s prevention of price suppression or undercutting on May 14, 2008. See Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Ronald K. Lorentzen, Deputy Assistant Secretary for Policy and Negotiations, regarding “Prevention of Price Suppression or Undercutting of Price Levels of Domestic Products by the Amended Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation” (May 14, 2008).

In September 2008, Congress enacted legislation which codified many provisions in the amended Suspension Agreement and instituted import quotas through 2020 that in large part mirror the quotas in the 2008 Amendment. See Consolidated Security, Disaster Assistance, and

Continuing Appropriations Act, 2009, H.R. 2638, 110<sup>th</sup> Cong. Section 8118, p.110-123 (2008) (“Domenici Amendment”).<sup>1</sup> On February 2, 2010, the Department issued its Statement of Administrative Intent which contained guidelines clarifying the Department’s intent with regard to the implementation of the amended Suspension Agreement and to take into consideration the requirements of the Domenici Amendment. See “Statement of Administrative Intent,” (February 2, 2010) (“SAI”).

There have been no completed administrative reviews of the Suspension Agreement. The Suspension Agreement remains in effect for all manufacturers, producers, and exporters of uranium from Russia.

#### Scope of Review

The merchandise covered by this Suspension Agreement (Section III, “Product Coverage”) includes the following products from Russia:<sup>2</sup>

Natural uranium in the form of uranium ores and concentrates; natural uranium metal and natural uranium compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing natural uranium or natural uranium compounds; uranium enriched in U<sup>235</sup> and its compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing uranium enriched in U<sup>235</sup> or compounds of uranium enriched in U<sup>235</sup>; and any other forms of uranium within the same class or kind.

Uranium ore from Russia that is milled into U<sub>3</sub>O<sub>8</sub> and/or converted into UF<sub>6</sub> in another

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<sup>1</sup> Section 8118 of the Domenici Amendment amends the USEC Privatization Act.

<sup>2</sup> See 1992 Suspension Agreements, at 49235.

country prior to direct and/or indirect importation into the United States is considered uranium from Russia and is subject to the terms of this Suspension Agreement.

For purposes of this Suspension Agreement, uranium enriched in U<sup>235</sup> or compounds of uranium enriched in U<sup>235</sup> in Russia are covered by this Suspension Agreement, regardless of their subsequent modification or blending. Uranium enriched in U<sup>235</sup> in another country prior to direct and/or indirect importation into the United States is not considered uranium from Russia and is not subject to the terms of this Suspension Agreement.<sup>3</sup>

HEU is within the scope of the underlying investigation, and HEU is covered by this Suspension Agreement. For the purpose of this Suspension Agreement, HEU means uranium enriched to 20 percent or greater in the isotope uranium-235.<sup>4</sup>

Imports of uranium ores and concentrates, natural uranium compounds, and all forms of enriched uranium are currently classifiable under the Harmonized Tariff Schedule of the United

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<sup>3</sup> As noted above, the second amendment of two amendments to the Suspension Agreement effective on November 4, 1996, in part included within the scope of the Suspension Agreement Russian uranium which had been enriched in a third country prior to importation into the United States. According to the amendment, this modification remained in effect until October 3, 1998. See Amendments to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 61 FR 56665, 56667 (November 4, 1996).

<sup>4</sup> Section IV.M of the Suspension Agreement in no way prevents Russia from selling directly or indirectly any or all of the HEU in existence at the time of the signing of the Suspension Agreement and/or LEU produced in Russia from HEU to the U.S. Department of Energy ("DOE"), its governmental successor, its contractors, assigns, or U.S. private parties acting in association with DOE or the United States Enrichment Corporation and in a manner not inconsistent with the agreement between the United States and Russia concerning the disposition of HEU resulting from the dismantlement of nuclear weapons in Russia. See 1992 Suspension Agreements, at 49237.



States (“HTSUS”) subheadings: 2612.10.00, 2844.10.20, 2844.20.00, respectively. Imports of natural uranium metal and forms of natural uranium other than compounds are currently classifiable under HTSUS subheadings: 2844.10.10 and 2844.10.50. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

The Department has not received any scope requests or made any scope determinations in this proceeding since the Second Sunset Review.

### Statute and Regulations

This review is being conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (“Sunset Regulations”) and in 19 CFR Part 351 (1999) in general.

### Background

On July 1, 2011, the Department initiated the third sunset review of the suspended antidumping duty investigation on uranium from Russia, pursuant to section 751(c) of the Act. See Initiation of Five-Year (“Sunset”) Review, 76 FR 38613 (July 1, 2011). The Department received a notice of intent to participate in this sunset review from USEC, on July 13, 2011, and from Power Resources, Inc. (“PRI”), and Crow Butte Resources, Inc. (“Crow Butte”), on July 18, 2011 (collectively, “domestic interested parties”), within the applicable deadline specified in section 351.218(d)(1)(i) of the Department’s regulations. Domestic interested parties claimed interested-party status under section 771(9)(C) of the Act as producers of the domestic like product.

The Department also received complete substantive responses from the domestic interested parties within the 30-day deadline specified in the Department's regulations under section 351.218(d)(3)(i). The Department did not receive a substantive response from the Russian government or any Russian producer/exporter of the subject merchandise. On August 16, 2011, the Department determined that the substantive responses from the domestic interested parties were adequate, consistent with the requirements of section 351.218(e)(1)(i)(A). See Memorandum to Sally C. Gannon, Director for Bilateral Agreements, Office of Policy, from Maureen Price, Senior Policy Analyst, Office of Policy, regarding "Sunset Review of the Agreement Suspending the Antidumping Investigation of Uranium from the Russian Federation: Adequacy Determination" (August 16, 2011). Based on the lack of any substantive response from respondent interested parties, the Department also determined to conduct an expedited (120-day) sunset review, in accordance with 19 CFR 351.218(e)(1)(ii)(C)(2). See Id. See also Letter from Barbara E. Tillman, Director, Office 6, AD/CVD Operations, to Catherine DeFilippo, Director, Office of Investigations, International Trade Commission (August 22, 2011).

#### Analysis of Comments Received

All issues raised by interested parties in this sunset review are addressed in the "Issues and Decision Memorandum for the Third Sunset Review of the Agreement Suspending the Antidumping Duty Investigation on Uranium from the Russian Federation; Final Results," to Paul Piquado, Assistant Secretary for Import Administration, from Carole Showers, Acting Deputy Assistant Secretary for Policy and Negotiations (October 28, 2011) ("Issues and Decision Memorandum"), which is adopted by this notice. The issues, and corresponding

recommendations, discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail were the suspended antidumping duty investigation to be terminated. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). Access to IA ACCESS is available in the Central Records Unit ("CRU"), room 7046, of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/frn>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

#### Final Results of Review

We determine that termination of the Suspension Agreement and the underlying antidumping duty investigation on uranium from Russia would likely lead to a continuation or recurrence of dumping at the following percentage weighted-average margin:

Exporter/manufacturer	Weighted-average margin (percent)
Russia-Wide	115.82

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of

an APO is a violation which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Tariff Act.

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Paul Piquado  
Assistant Secretary  
for Import Administration

October 28, 2011  
Date

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